

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JOHN DAVID NAGEL,

Plaintiff

Case No. 2:20-cv-01279-GMN-DJA

ORDER

v.

CORE CIVIC, *et al.*,

Defendants

I. DISCUSSION

On July 9, 2020, Plaintiff, an inmate in the custody of the Nevada Southern Detention Center ("NSDC"), submitted a civil rights complaint and filed an application to proceed *in forma pauperis*. Docket Nos. 1-1, 1. Plaintiff's complaint and Plaintiff's application to proceed *in forma pauperis* are both incomplete.

Plaintiff's Complaint

Upon review, the Court notes that Plaintiff did not sign the complaint. Docket No. 1-1 at 7. Under Rule 11 of the Federal Rules of Civil Procedure, a plaintiff who is not represented by counsel is required to sign his complaint. Fed. R. Civ. P. 11(a). Because Plaintiff did not sign the complaint, the Court cannot consider it.

As such, the Court grants Plaintiff a **one-time extension** to submit a signed amended complaint to the Court on or before **September 8, 2020**. If Plaintiff chooses to file an amended complaint, he is advised that an amended complaint supersedes (replaces) the original complaint and, thus, the amended complaint must be complete in itself. See *Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d 1542, 1546 (9th Cir. 1989). Therefore, a mere signature page will not be sufficient. Plaintiff should file the amended complaint on this Court's approved prisoner civil rights form, and it must be entitled "First Amended Complaint."

Plaintiff's Application to Proceed *in Forma Pauperis*

Plaintiff has not submitted an inmate account statement with his Application to

1 Proceed in Forma Pauperis. Docket No. 1. If Plaintiff has not been at the NSDC facility
2 a full six-month period, Plaintiff must still submit an inmate account statement for the
3 dates he has been present at the facility.

4 Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin
5 a civil action in this Court may apply to proceed *in forma pauperis* in order to file the civil
6 action without prepaying the full \$400 filing fee.

7 To apply for *in forma pauperis* status, the inmate must submit all three the following
8 documents to the Court:

9 (1) a completed Application to Proceed in Forma Pauperis for Inmate, this
10 Court's approved form (i.e. pages 1 through 3 with the inmate's two signatures on
11 page 3),

12 (2) a Financial Certificate properly signed by both the inmate and a prison or jail
13 official (i.e. page 4 of this Court's approved form), and

14 (3) a copy of the inmate's prison or jail trust fund account statement for the
15 previous six-month period. If Plaintiff has not been at the facility a full six-month period,
16 Plaintiff must still submit an inmate account statement for the dates he has been present
17 at the facility.

18 Accordingly, the Court denies Plaintiff's application to proceed *in forma pauperis*
19 (Docket No. 1) without prejudice because the application is incomplete. The Court will
20 grant Plaintiff a one-time extension to file a fully complete application to proceed *in forma*
21 *pauperis* containing all three of the required documents. Plaintiff will file a fully complete
22 application to proceed *in forma pauperis* on or before **September 8, 2020**. Absent
23 unusual circumstances, the Court will not grant any further extensions of time.

24 If Plaintiff is unable to file a signed amended complaint and a fully complete
25 application to proceed *in forma pauperis*, with complete financial attachments, on or
26 before **September 8, 2020**, the Court will dismiss this case without prejudice for Plaintiff
27 to file a new case with the Court when Plaintiff is able to file a signed amended complaint
28 and a fully complete application to proceed *in forma pauperis*, with complete financial

1 attachments.

2 To clarify, a dismissal without prejudice means Plaintiff does not give up the right
3 to refile the case with the Court, under a new case number, when Plaintiff is able to file a
4 signed complaint and a fully complete application to proceed *in forma pauperis*, with
5 complete financial attachments. Alternatively, with respect to his application, Plaintiff may
6 choose not to file an application to proceed *in forma pauperis* and instead pay the full
7 filing fee of \$400 on or before **September 8, 2020** to proceed with this case.

8 **II. CONCLUSION**

9 For the foregoing reasons, IT IS ORDERED that the Clerk of the Court shall send
10 to Plaintiff a copy of his original complaint at Docket No. 1-1. If Plaintiff files an amended
11 complaint, he must write the words "First Amended Complaint" in the caption and include
12 his case number.

13 IT IS FURTHER ORDERD that if Plaintiff chooses to file a signed amended
14 complaint, Plaintiff will file the signed amended complaint to this Court on or before
15 **September 8, 2020**.

16 IT IS FURTHER ORDERED that, if Plaintiff does not file a signed amended
17 complaint on or before **September 8, 2020**, the Court will dismiss this action without
18 prejudice for Plaintiff to refile the case with the Court, under a new case number, when
19 Plaintiff is able to file a signed amended complaint.

20 IT IS FURTHER ORDERED that Plaintiff's application to proceed *in forma pauperis*
21 (Docket No. 1) is denied without prejudice to file a new fully complete application to
22 proceed *in forma pauperis* with all three documents.

23 IT IS FURTHER ORDERED that the Clerk of the Court will send Plaintiff the
24 approved form application to proceed *in forma pauperis* by an inmate, as well as the
25 document entitled information and instructions for filing an *in forma pauperis* application.

26 IT IS FURTHER ORDERED that on or before **September 8, 2020**, Plaintiff will
27 either pay the full \$400 filing fee for a civil action (which includes the \$350 filing fee and
28 the \$50 administrative fee) or file with the Court:

1 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this
2 Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two
3 signatures on page 3),

4 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail
5 official (i.e. page 4 of this Court's approved form), and

6 (3) a copy of the **inmate's prison or jail trust fund account statement for the**
7 **previous six-month period**. If Plaintiff has not been at the facility a full six-month period,
8 Plaintiff must still submit an inmate account statement for the dates he has been present
9 at the facility.

10 IT IS FURTHER ORDERED that, if Plaintiff does not file a fully complete
11 application to proceed *in forma pauperis* with all three documents or pay the full \$400
12 filing fee for a civil action on or before **September 8, 2020**, the Court will dismiss this
13 action without prejudice for Plaintiff to refile the case with the Court, under a new case
14 number, when Plaintiff has all three documents needed to file a complete application to
15 proceed *in forma pauperis*.

16 DATED: July 13, 2020.

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19 UNITED STATES MAGISTRATE JUDGE
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